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PLUNKETT
7/17/99

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

| | | | |
|-------------|----------------------------|-----------|--------|
| Applicants: | Liu and Chen | | |
| Serial No.: | 09/081,737 | Case No.: | 19959Y |
| Filed: | May 19, 1998 | | |
| For: | HUMAN UNCOUPLING PROTEIN 3 | | |

Art Unit: 1652

Examiner:
Peter Tung

Assistant Commissioner of Patents
Washington, D.C. 20231

DECLARATION, 37 C.F.R. §1.131

CERTIFICATE OF MAILING UNDER 37 C.F.R. 1.8(a)
I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING
DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS
FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED TO:
ASSISTANT COMMISSIONER OF PATENTS WASHINGTON, D.C. 20231,
ON THE DATE APPEARING BELOW.

BY: J. Marshall
REGISTRATION NO.: 36,545
DATE: JUN 29, 1999

Sir:

1. This Declaration is to establish completion of the claimed invention in this application in the United States, at a date prior to May 12, 1997, the alleged effective date of the publication of Boss et al. (1997, Uncoupling protein-3: A new member of the mitochondrial carrier family with tissue specific expression, *FEBS Letters* 408:39-42). Boss et al. was disclosed in the Information Disclosure Statement filed by Applicants on December 4, 1998 and was cited as a prior art reference by the Examiner in the Office Action issued January 5, 1999.

2. The persons making this declaration are the joint inventors, Qingyun Liu and Fang Chen.

3. To establish the date of completion of the claimed invention of this application, a redacted photocopy of Notebook page 173 and attachments to page 173 from co-inventor Fang Chen are submitted as Exhibit A as evidence of conception and reduction to practice of a DNA molecule which encodes human UCP3.

4. Redacted notebook page 173 refers to the nucleotide sequence results obtained for the human UCP3 cDNA.

5. A redacted first attached page, with the statement "for p. 173", contains the contig map for human UCP3.

6. A redacted second page, also with the statement "for p. 173", shows the amino acid homology between human UCP1 and human UCP3, as disclosed in SEQ ID NO: 12.

7. A redacted third page, again with the statement "for p. 173", shows the amino acid homology between human UCP2 and human UCP3, as disclosed in SEQ ID NO: 12

8. Co-inventors Qingyun Liu and Fang Chen hereby declare that the data presented in the redacted photocopy of Notebook page 173 and redacted attachments to page 173 as described in paragraphs 5-7 were conceived and reduced to practice, entered into a Merck & Co. notebook and co-signed at least prior to May 12, 1997, the alleged effective date of Boss et al. (1997, Uncoupling protein-3: A new member of the mitochondrial carrier family with tissue specific expression, *FEBS Letters* 408:39-42).

9. This declaration is submitted prior to final rejection.

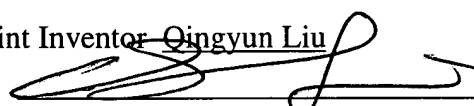
10. As a person signing below:

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

11.

A. Inventors

Full name of First Joint Inventor Qingyun Liu

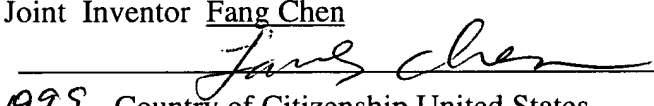
Inventor's Signature 

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Full name of Second Joint Inventor Fang Chen

Inventor's Signature 

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